

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 72 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MANGALSINH CHANUBHA JADEJA

Versus

COMMISSIONER OF POLICE

Appearance:

MR ASHISH M DAGLI for Petitioner

MR KT DAVE, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 28/03/2000

ORAL JUDGEMENT

1. The Commissioner of Police, Rajkot City, Rajkot, passed an order on August 25, 1999, in exercise of powers under Section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining Mangalsinh Chanubha Jadeja of Rajkot, under the

provisions of the said Act.

2. The detaining authority took into consideration three offences registered against the detenu. The authority considered less drastic alternative remedies and came to conclusion that, in order to prevent the petitioner-detenu from pursuing his activities detrimental to public order, he is required to be detained under the PASA Act.

3. The petitioner challenges the order of detention on various grounds. Ms. Pahwa, learned advocate appearing for Mr. Dagli, learned advocate for the petitioner, has submitted that the detaining authority failed in supplying legible copies of the relevant documents and, thereby, the right of the detenu of making an effective representation is affected. The petition may, therefore, be allowed.

4. Mr. K.T. Dave, learned Assistant Government Pleader, on the other hand, has opposed this petition. He submitted that legible copies were demanded by the detenu by representation dated 10th December, 1999 and the same have been supplied. Therefore, there is no reason to entertain this petition.

5. Considering rival side contentions, it may be stated, at the outset, that the compilation of the documents supplied to the detenu along with the grounds of detention has been placed on record of this Court. Considering that compilation, particularly, pages No.87 and 123, it is apparent that they are not legible. It is true that the documents were demanded by a representation dated 10th December, 1999, but that cannot exonerate the detaining authority from its obligation of supplying legible copies of documents relied upon while passing the order, as supply of illegible copies or non-supply of legible copies would amount to non-communication of grounds and, therefore, the detaining authority having failed to supply legible copies of these documents along with the grounds of detention, there is infringement of right of making an effective representation, at that point of time. Demand of the documents at a later point of time and supply of the documents too much lapse of time cannot come to the rescue of the detaining authority as the requirement is breached at the very initial stage of passing of order. Under the circumstances, the petition deserves to be allowed on the ground of non-supply of legible documents or supply of illegible documents, resulting into infringement of right of the detenu of making an effective representation.

6. In view of the above discussion, the petition is allowed. The impugned order of detention dated August 25, 1999, passed against the detenu is hereby quashed. The detenu-Mangalsinh Chanubha Jadeja is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no orders as to costs.

[A.L. DAVE, J.]

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